

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
EASTERN DIVISION

NO. 4:13-CV-00210-FL

BESSIE EVANS, on behalf of the estate of)
her daughter, Jeanie Evans; and CONNIE)
NORTHINGTON, on behalf of the estate)
of Sharonda Hendricks,)

Plaintiffs,)

v.)

ORDER

PMT EXPRESS, LLC a/k/a PAUL)
MILLER TRUCKING; PAUL MILLER)
TRUCKING, INC. d/b/a PAUL MILLER)
TRUCKING, INC.; and JAMES PHILIP)
MYERS, JR.,)

Defendants.)

This matter comes before the court upon plaintiffs' motion to stay (DE 81), wherein they seek a stay of the case to file appropriate action in a court of proper jurisdiction to determine whether Otis McGee is an heir of Jeanie Evans, which determination the parties agree will aid resolution of ongoing disputes related to settlement negotiations. Defendants filed response indicating they have no objection to a stay of the case for this purpose, but they note that to resolve this heirship issue, plaintiffs must commence an adversarial proceeding whereby McGee is served and given an opportunity to be heard.

The father of a child born out of wedlock must satisfy the requirements of N.C. Gen. Stat. § 29-19(c) to be able to inherit from the child. If the person either has not been finally adjudged to be the father of the child, pursuant to § 29-19(b)(1), or has not acknowledged himself as the father

of the child, pursuant to § 29-19(b)(2), then the person cannot inherit from the child. N.C. Gen. Stat. § 29-19(c); see also *In re Estate of Morris*, 123 N.C. App. 264, 266 (1996) (“G.S. 29-19 also provides the *only* means by which a putative father may inherit from his illegitimate child.”) (emphasis added).

The court GRANTS plaintiffs’ motion, and this case, including the pending motion to approve wrongful death settlement, is STAYED for purposes of allowing plaintiffs to file an appropriate action in a state court of proper jurisdiction to determine whether McGee satisfies § 29-19(c) and thus has the right to inherit from Jeanie Evans. Plaintiffs are DIRECTED to file a status report no later than sixty (60) days from the date of this order regarding the progress of any state court proceeding under § 29-19(c), and regarding whether a continued stay of the instant action is warranted.

SO ORDERED, this the 6th day of June, 2014.

A handwritten signature in black ink, reading "Louise W. Flanagan". The signature is written in a cursive, flowing style.

LOUISE W. FLANAGAN
United States District Judge